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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,216	11/17/2000	James M. Salerno		6808

7590

11/08/2002

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EXAMINER

COLLINS, DOLORES R

ART UNIT PAPER NUMBER

3711

DATE MAILED: 11/08/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/715,216

Applicant(s)

SALERNO, JAMES M.

Examiner

Dolores R. Collins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

The final office action mailed 5/21/2002 has been withdrawn in view of newly discovered prior art. A new office action on the merits is presented below.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no teaching, in the application filed, of how to combine the Velcro fastening system of claim 9 with a metal strip and hooks of claim 10.

Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make

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and/or use the invention. Applicant fails to disclose, in the specification, the method intended to be used to combine his Velcro and Metal fastening systems.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1 & 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hairston et al. in view of Seibert and Bendalari.

Hairston et al discloses a Table Cover System.

Regarding claims 1 & 4

Hairston teaches:

- a table cover, with a border, having a predetermined size and shape (see figure 1)
- and
- a Velcro fastening member (16) extending continuously around the circumference of the border of the cover (see figure 1).

Hairston fails to explicitly teach that his table cover is a gaming cloth or for a gaming table. Hairston further fails to explicitly teach that his cloth is made from a stretchable fabric. The patent to Seibert discloses a Gaming Table Cloth. It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the table covering of Hairston to so that it can function as of a gaming table cloth as taught by Seibert in order to extend its' functionality. The patent to Bendalari discloses a removable stretchable fabric cover to allow it to fit various size tables. Bendalari's cover is made of a fabric woven of an elastic material (see claim 1). It would be obvious, in

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view of Bendelari, to make the Table Cover System of Hairston stretchable to allow it to fit various size tables.

2. Claims 5 & 6 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ehrlich.

Ehrlich discloses a Table Skirt-Attaching Method.

Regarding claims 5 & 6

Ehrlich teaches:

- a table with a surface portion, a portion extending perpendicular from the surface and a fastening member (74) secured around the circumference of the table.

Claims 5 and 6, are anticipated by Ehrlich, since “gaming table” is deemed to be intended use rather than structure, and new use does not have patentable weight if structure is known. However, if for purposes of argument “gaming table” were deemed to have weight, then it would have been obvious to use the table of Ehrlich for gaming such as playing cards to make the table more versatile.

Ehrlich does not teach that his table is a gaming table, however, there is no reason why it could not be used for gaming.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrlich as applied to claim 5 above, and further in view of Nelson.

Nelson discloses Means For Fastening Cloth To Game Tables And The Like.

Regarding claim 7

Nelson teaches:

- a fastening member comprising a metal member having hooks extending there from (figures 2 & 3 and page 1, lines 45-66).

It would be obvious to include the metal strips and hooks of Nelson to the table of Ehrlich to make it more versatile when used with various types of gaming table cloths.

4. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hairston in view of Ehrlich and Hartwell.

Hairston et al discloses a Table Cover System.

Regarding claims 8-10

Hairston teaches:

- a table cover, with a border, having a predetermined size and shape (see figure 1)
- and
- a Velcro fastening member (16) extending continuously around the circumference of the border of the cover (see figure 1).

The table cover of Hairston is inherently capable of use as a gaming cloth or for a gaming table. Moreover, there is no reason why his table could not be used for gaming, such as playing cards. Hairston lacks the teaching of a first fastening member being secured to a second fastening member (the second fastening member being attached to the circumference of the table). Ehrlich discloses a Table Skirt-Attaching Method.

Ehrlich teaches:

- a table with a surface portion, a portion extending perpendicular from the surface and a fastening member (74) secured around the circumference of the table.

The patent to Hartwell discloses a Food Rack Cover. Hartwell is used to show that the teaching of a first fastening member being secured to a second

fastening member (the second fastening member being attached to the circumference of the Rack/object (or table) being covered) is known. It would have been obvious in view of Hartwell to attach the fitted fabric cover (10) of Hairston directly to the table edge using continuous Velcro around the table edge.

5. Claim 11, as understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Ehrlich in view of Nelson.

Ehrlich discloses a Table Skirt-Attaching Method.

Regarding claim 11

Ehrlich teaches:

- a table with a surface portion, a portion extending perpendicular from the surface and a fastening member (74) secured around the circumference of the table.

The recitation of a “gaming table” is deemed to be intended use rather than structure, and new use does not have patentable weight if structure is known. However, if for purposes of argument “gaming table” were deemed to

have weight, then it would have been obvious to use the table of Ehrlich for gaming such as playing cards to make the table the table more versatile.

Ehrlich does not teach that his table is a gaming table, however, there is no reason why it could not be used for gaming.

Nelson discloses Means For Fastening Cloth To Game Tables And The Like. Nelson teaches a fastening member comprising a metal member having hooks extending there from (figures 2 & 3 and page 1, lines 45-66). It would be obvious to include the metal strips and hooks of Nelson to the table of Ehrlich to make it more versatile when used with various types of gaming table cloths.

6. Claims 12 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sui in view of Seibert and Bendelari.

Regarding claims 12 & 13

Sui teaches:

- a fabric table cloth having a predetermined shape and size with a fastening member secured to the bottom surface of the border/tab (see figure 1);
- a border which extends continuously around the circumference of the table cloth (see figures 1-5);
- a tablecloth with flaps (see figures 1-5)

and

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- a tablecloth with Velcro Members (see figure 1A reference character "21")

Sui fails to explicitly teach that his table cover is a gaming cloth or for a gaming table. Sui further fails to explicitly teach that his cloth is made from a stretchable fabric.

The patent to Seibert discloses a Gaming Table Cloth.

It would be obvious to one of ordinary skill in the art at the time the invention was made to modify the table covering of Sui to include the teaching of a gaming table as taught by Seibert in order to extend its' functionality.

The patent to Bendelari discloses a removable Fabric Cover For Furniture And Other like Articles. Bendelari's cover is made of a fabric woven of an elastic material (see claim 1).

It would be obvious to include the teachings of Bendelari to the modified Table Cover System of Sui for the smooth, flat fitting table cover necessary for gaming tables.

Response to Argument

Applicant's arguments with respect to claims 1 & 4-13 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Blackmore, Cohen, Hjort, Lee, Billbury, Kring, Ehrlich, Dougherty, Van Stratum, Figueroa, Walker, Conway et al., Schuman (404) & (864), Di Fronzo, Kweito et al., Pirkel et al., Pacione, Brown and Hairston et al. are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is **(703) 308-8352**. The examiner can normally be reached on 9:00 A.M. - 5:30 P.M..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***PAUL SEWELL*** can be reached on **(703) 308-2126**. The fax phone numbers for the organization where this application or proceeding is assigned are **(703) 305-3579** for regular communications and **(703) 305-3579** for After Final communications.

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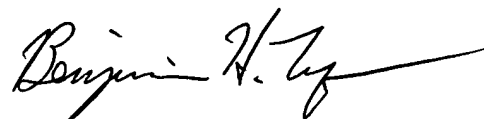
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is **(703) 308-1148**.



October 28, 2002

Reopening Approved


Paul T. Sowell
Supervisory Patent Examiner
Group 3750



Benjamin H. Layno
Primary Examiner